IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 20TH AUGUST 2007 / 29TH SRAVANA 1929

Crl.MC.No. 2631 of 2007()

CRIME NO.508/06 OF MAVELIKKARA POLICE STATION

PETITIONER: ACCUSED NO. 1 TO 3

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1. SURESH KUMAR, KRISHNA BHAVAN,
   POTTARKAVU MURI, MAVELIKKARA,
   ALAPPUZHA.

2. KRISHNANKUTTY, KRISHNA BHAVAN,
   POTTARKAVU MURI, MAVELIKKARA,
   ALAPPUZHA.

3. NALINI, KRISHNA BHAVAN, POTTARKAVU
   MURI, MAVELIKKARA, ALAPPUZHA.

BY ADV. SRI.S.SANAL KUMAR
SMT.BHAVANA VELAYUDHAN

RESPONDENTS: COMPLAINANT & DEFACTO COMPLAINANT

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1. STATE OF KERALA,
   REPRESENTED BY THE PUBLIC PROSECUTOR,
   HIGH COURT OF KERALA, ERNAKULAM.

2. BINCY MOL, D/O.SYAMALA, S.S.SADANAM,
   AGASTHYACODE MURI, ANCHAL VILLAGE,
   KOLLAM DISTRICT.

BY PUBLIC PROSECUTOR SRI.M.S.BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 20/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No. 2631 of 2007

Dated this the 20th day of August, 2007

O R D E R

The petitioners are accused 1 to 3 in a prosecution under Section 498 A I.P.C. Cognizance has been taken on the basis of a final report submitted by the police after due investigation. The petitioners have not appeared before the learned Magistrate. Consequently the warrants of arrest issued by the learned Magistrate are chasing the petitioners. It is, in these circumstances, that the petitioners have come before this Court with a prayer that powers under Section 482 Cr.P.C may be invoked to quash the proceedings against the petitioners.

2. What is the ground ? There is a contention raised that the allegations against the petitioners are totally false and unacceptable. In proceedings under Section 482 Cr.P.C, this Court cannot, of course meticulously evaluate the materials available about disputed facts and come to any authentic conclusions. Such contentions must be urged in the course of trial.

3. The learned counsel for the petitioners then contends that the F.I.R was registered at a time when proceedings were pending before the Lok Adalat organised by the Legal Services Authority. The

mere pendency of proceedings before the Lok Adalat organised by the Legal Services Authority is no reason to insist that the parties must not seek relief which is otherwise available under law. The prayer for the quashing cannot be justified on that ground also.

4. The learned counsel for the petitioners wants to rely on certain pleadings in the proceedings before the Lok Adalat to buttress his argument that the allegations are false. I am satisfied that, as stated earlier, disputed contentions regarding the facts cannot be attempted to be resolved on the basis of pleading raised in earlier proceedings.

5. In these circumstances, the prayer for quashing of proceedings cannot obviously succeed. The petition deserves to be dismissed.

6. The learned counsel for the petitioners further submits that the warrants of arrest are chasing the petitioners and that the petitioners apprehend that their application for regular bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. Appropriate directions may be issued, it is prayed.

7. It is for the petitioners to appear before the learned Magistrate and explain to the learned Magistrate the circumstances

under which they could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider such application on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police [**2003(1) KLT 339].

8. This Crl.M.C is, in these circumstances, dismissed,but with the specific observation that if the petitioners appear before the learned Magistrate and apply for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously - on the date of surrender itself.

9. Needless to say that if the petitioners claim discharge, the learned Magistrate must consider such plea at the stage of Section 239/240 Cr.P.C and take appropriate decisions on the claim for discharge.

(R.BASANT, JUDGE)

rtr/-